

(2010) 07 DEL CK 0197

In the Delhi High Court

Case No : RA No. 269 of 2010 in WP (C) No. 2792 of 2010

Dr. A.K. Belwal

APPELLANT

Vs

UOI and Others

RESPONDENT

Date of Decision : 16-07-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 47 Rule 1

Citation : (2010) 07 DEL CK 0197

Hon'ble Judges : Mool Chand Garg, J;Anil Kumar, J

Bench : Division Bench

Advocate : A.K. Belwal, Petitioner in Person, for the Appellant; A.K. Bhardwaj, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.

CM No. 8739/2010

1. This is an application by the petitioner seeking condonation of delay of seven days in filing the review petition.

2. For the reasons stated in the application, it is allowed and the delay of seven days in filing the review application is condoned.

RA No. 269/2010

3. The petitioner has sought review of order dated 27th April, 2010 dismissing the petition seeking quashing of a letter written by Sh. A.K. Bhardwaj, Senior Central Govt. counsel addressed to Ms. Mala Dutt, Director, IES Cadre dated 1st August, 2005 on the ground that she was intimated by the counsel that the Court has orally asked him that the petitioner's period is to be regularized in accordance with law and it is not necessary to treat the period as "spent on duty" or even dies non and consequently to finalize the departmental inquiry and to take a final decision.

4. The petitioner had sought quashing of the communication by the Senior Central Govt. counsel to the official of the Govt., i.e., Ms. Mala Dutt on the ground that no Court says anything orally and no oral directions could be given and consequently, the intimation by the Senior Central Govt. counsel to the official, Director, IES Cadre is incorrect and was liable to be quashed.

5. This Court, after noticing that a writ petition being WP(C) No. 10978/2005 was filed where an interim order was passed holding that after petitioner joining at Simla, the necessary orders for regularization of the petitioner's service for the period of his absence had to be passed in accordance with law. Although, an interim order was passed, however, later on the writ petition was dismissed by order dated 22nd September, 2005.

6. The petitioner had sought review of order dated 22nd September, 2005, which was also dismissed in RA 129/2008 by order dated 4th April, 2004. The petitioner had also filed a contempt petition being Cont. Cas. (C) No. 106/2010 seeking quashing of alleged notes/letters and all the actions taken consequent to such letters and for initiation of contempt proceedings against Ms. Mala Dutt, the former Director, IES Cadre and Mr. A.K. Bhardwaj, Senior Central Govt. counsel, which was also dismissed by order dated 18th February, 2010.

7. Dismissal of writ petition, review petition and contempt petition did not dissuaded the petitioner from filing another contempt petition being Cont. Cas. No. 163/2010 against Ms. Mala Dutt, which was also dismissed by order dated 16th March, 2010. The petitioner, thereafter, filed yet another writ petition being WP(C) No. 2792/2010, which was dismissed by this Court by order dated 27th April, 2010 and in the circumstances, on account of frivolous litigation initiated by the petitioner, the cost was also imposed while dismissing the writ petition no. 2792 of 2010.

8. The petitioner has now sought review of the said order on the same grounds, which were raised in WP (C) No. 2792/2010 titled as Dr. A.K. Belwal Vs. Union of India and Ors. The petitioner has contended that in the letter dated 1st August, 2005, the counsel had written that he was intimated orally by the Court that the Department should finalize the inquiry immediately and take a final decision. The petitioner is reiterating his plea that no Court gives any oral directions as the Court speaks through its order and any such oral order is perverse. In the circumstances, it is contended that it is a case of clear misconduct of Senior Central Govt. counsel Sh. A.K. Bhardwaj, who had misused the process of law through putting words in the mouth of the Court and therefore, the order dated 27th April, 2010 deserves to be reviewed. In the circumstances, it is sought that WP(C) No. 2792/2010 be restored and reliefs claimed in the prayer clause may be granted and costs imposed upon the petitioner be also waived of.

9. It is a settled law that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 of the Code of Civil Procedure. An order can be reviewed if there is a mistake or an error apparent on the face of the record.

An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying exercise of power of review by the Court. In exercise of jurisdiction for review of order, it is not permissible for an erroneous decision to be re-heard and corrected.

10. A review jurisdiction has a limited purpose and cannot be allowed to be an appeal in disguise. A review cannot be sought merely for fresh hearing or arguments or correction of an erroneous view taken earlier. The power of a review can be exercised only for correction of a patent error of law or fact which stays in the face without any elaborate arguments being needed for establishing it.

11. Attempt of the applicant by filing the present application is only to re-agitate the issue that the Senior Central Govt. counsel Mr. A.K. Bhardwaj could not communicate in his communication dated 1st August, 2005 that the Court has orally observed that the disciplinary proceedings should be concluded expeditiously. The plea of the petitioner that such oral observations could not be made by the Court and thus, Senior Central Govt. counsel has misled and has committed contempt of Court has been rejected repeatedly in various petitions filed by the petitioner.

12. In the circumstances, there is no error apparent in the order dated 27th April, 2010 passed by this Court dismissing the writ petition with costs.

13. Therefore, the order dated 27th April, 2010 does not have any patent error and the same cannot be set aside. In the facts and circumstances, on account of frivolous petitions filed by the petitioner, he is also not entitled for waiving of the costs imposed on him vide order dated 27th April, 2010.

14. The application for review is, therefore, without any merit and it is dismissed.